AMENDED IN SENATE JUNE 30, 2003

AMENDED IN ASSEMBLY MAY 6, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL No. 1394

Introduced by Assembly ~~Member Levine~~ *Members Levine and Montanez*

February 21, 2003

An act to amend ~~Section 44295 of~~ *Sections 44275, 44280, 44281, 44282, 44283, 44284, 44285, and 44295 of, and to add Article 13 (commencing with Section 44297) to Chapter 9 of Part 5 of Division 26 of,* the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1394, as amended, Levine. Air pollution: Carl Moyer Memorial Air Quality Standards Attainment Program: ~~annual report~~ *particulate matter.*

Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program, administered by the State Air Resources Board. Under the program, the state board is authorized to make grants for the purchase of low-emission, heavy-duty engines for vehicles, equipment, vessels, and locomotives *in order to reduce emissions of oxides of nitrogen*, and authorizes the administration of the program to be delegated to air pollution control districts and air quality management districts. ~~Existing law requires the state board, commencing March 1, 2001, and each March 1 thereafter, to March 1, 2003, inclusive, to publish a program report in cooperation with participating districts and assisted by the State Energy Resources~~

~~Conservation and Development Commission, and to provide that report to the Legislature.~~

This bill would ~~extend the program report requirements to March 1, 2006, inclusive~~ *include in the Carl Moyer program projects that reduce emissions of particulate matter. The bill would require the state board, by July 1, 2004, to assess programs that retire the oldest and heaviest-polluting onroad diesel vehicles to ensure the programs produce real, quantifiable, enforceable, and surplus emission reductions. The bill would also require the state board, by January 1, 2005, to revise the existing grant criteria and guidelines to incorporate projects that reduce emissions of particular matter.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. (a) It is the intent of the Legislature to ensure~~

SECTION. 1. The Legislature finds and declares all of the following:

(a) Emissions of particulate matter, including, but not limited to, coarse particulate matter (PM10) and fine particulate matter (PM2.5), lodge deep into the lungs and contribute to a wide range of adverse health impacts, including, but not limited to, increased infant morbidity and mortality, reduced lung function, increased respiratory symptoms in asthmatics and nonasthmatics, and increased emergency room visits.

(b) Ninety-nine percent of the state's population live in areas that fail to meet the state's ambient air quality standard for PM10.

(c) Particulate matter emissions can have community-level impacts, with the potential for adverse health effects greatest in those communities with the heaviest concentration of PM emission sources.

(d) Diesel particulate matter has been identified by the State Air Resources Board as both a carcinogen and a toxic air contaminant. According to the state board, particulate matter from diesel-fueled engines contributes more than 70 percent of the known risk from toxic air contaminants in the state today.

(e) Diesel engines are durable, and it is not uncommon for a heavy-duty diesel vehicle to stay on the road for 30 years. These oldest diesel engines contribute disproportionately to the state's

oxides of nitrogen (NO_x) and PM emission inventories. A diesel truck produced between the years of 1975 and 1983 emits 10 times as much NO_x, and six times as much PM, as a diesel truck that meets current standards.

(f) Owners of the oldest heavy-duty diesel vehicles tend to be relatively low-income independent owner-operators who provide short-haul services, usually within a single air district and concentrated in specified industrial sectors, including, but not limited to, port operations.

(g) The Carl Moyer Memorial Air Quality Standards Attainment Program (Ch. 9 (commencing with Sec. 44275) Pt. 5, Div. 26, H.& S.C.) has successfully encouraged the adoption of cleaner diesel and alternative fueled heavy-duty engines. However, the program is not currently designed to remove oldest, heaviest polluting vehicles or to replace them with newer, lower-emitting vehicles, in large part because the owners of the oldest trucks cannot afford to buy a vehicle that qualifies for incentives under the program.

(h) It is in the public interest to pursue all cost-effective efforts consistent with the Carl Moyer program, to retire from service the oldest, heaviest polluting heavy-duty diesel trucks and replace them with newer, lower emissions vehicles.

SEC. 2. Section 44275 of the Health and Safety Code is amended to read:

44275. As used in this chapter, the following terms have the following meaning:

(a) ''Advisory board'' means the Carl Moyer Program Advisory Board created by Section 44297.

(b) ''Btu'' means British thermal unit.

(c) ''Commission'' means the State Energy Resources Conservation and Development Commission.

(d) ''Cost-effectiveness'' means dollars provided to a project pursuant to subdivision (d) of Section 44283 for each ton of NO_x *or PM* emission reduction attributed to a project or to the program as a whole. In calculating cost-effectiveness, one-time grants of funds made at the beginning of a project shall be annualized using a time value of public funds or discount rate determined for each project by the state board, taking into account the interest rate on bonds, interest earned by state funds, and other factors as determined appropriate by the state board. Cost-effectiveness shall

be calculated by dividing annualized costs by average annual emissions reduction of NO_x *and PM* in this state.

(e) ''Covered engine'' includes any internal combustion engine or electric motor and drive powering a covered source.

(f) ''Covered source'' includes onroad vehicles of 14,000 pounds GVWR or greater, offroad nonrecreational equipment and vehicles, locomotives, diesel marine vessels, stationary agricultural engines, and, as determined by the state board, other high-emitting diesel engine categories.

(g) ''Covered vehicle'' includes any vehicle or piece of equipment powered by a covered engine.

(h) ''District'' means a county air pollution control district or an air quality management district.

(i) ''Fund'' means the Carl Moyer Memorial Air Quality Standards Attainment Trust Fund created by Section 44299.

(j) ''Mobile Source Air Pollution Reduction Review Committee'' means the Mobile Source Air Pollution Reduction Review Committee created by Section 44244.

(k) ''Incremental cost'' means the cost of the project less a baseline cost that would otherwise be incurred by the applicant in the normal course of business. Incremental costs may include added lease or fuel costs pursuant to Section 44283 as well as incremental capital costs.

(*l*) ''New very low emission vehicle'' means a vehicle that qualifies as a very low emission vehicle when it is a new vehicle, where new vehicle has the same meaning as defined in Section 430 of the Vehicle Code, or that is modified with the approval and warranty of the original equipment manufacturer to qualify as a very low emission vehicle within 12 months of delivery to an owner for private or commercial use.

(m) ''NO_x'' means oxides of nitrogen.

(n) ''Program'' means the Carl Moyer Memorial Air Quality Standards Attainment Program created by subdivision (a) of Section 44280.

(o) ''Repower'' means replacing an engine with a different engine. The term repower, as used in this chapter, generally refers to replacing an older, uncontrolled engine with a new, emissions-certified engine, although replacing an older emissions-certified engine with a newer engine certified to lower

emissions standards may be eligible for funding under this program.

(p) ''Retrofit'' means making modifications to the engine and fuel system such that the retrofitted engine does not have the same specifications as the original engine.

(q) ''Very low emission vehicle'' means a vehicle with emissions significantly lower than otherwise applicable baseline emission standards or uncontrolled emission levels pursuant to Section 44282.

(r) "PM" means particulate matter.

SEC. 3. Section 44280 of the Health and Safety Code is amended to read:

44280. (a) There is hereby created the Carl Moyer Memorial Air Quality Standards Attainment Program. The program shall be administered by the state board in accordance with this chapter. The administration of the program may be delegated to the districts.

(b) The program shall provide grants to offset the incremental cost of projects that reduce emissions of NO_x *and PM or, at the discretion of the district,* NO_x from covered sources in California. Eligibility for grant awards shall be determined by the state board, in consultation with the districts, in accordance with this chapter.

(c) The program shall also provide funding for a fueling infrastructure demonstration program and for technology development efforts that are expected to result in commercially available technologies in the near-term that would improve the ability of the program to achieve its goals. The infrastructure demonstration and technology development portions of the program shall be managed by the commission, in consultation with the state board.

SEC. 4. Section 44281 of the Health and Safety Code is amended to read:

44281. (a) Eligible projects are any of the following:

(1) Purchase of new very low- or zero-emission covered vehicles or covered engines.

(2) Emission-reducing retrofit of covered engines, or replacement of old engines powering covered sources with newer engines certified to more stringent emissions standards than the engine being replaced, or with electric motors or drives.

(3) Purchase and use of emission-reducing add-on equipment for covered vehicles.

(4) Development and demonstration of practical, low-emission retrofit technologies, repower options, and advanced technologies for covered engines and vehicles with very low emissions of oxides of nitrogen *and particulate matter.*

(b) No new purchase, retrofit, repower, or add-on equipment shall be funded under this chapter if it is required by any local, state, or federal statute, rule, regulation, memoranda of agreement or understanding, or other legally binding document, except that an otherwise qualified project may be funded even if the State Implementation Plan assumes that the change in equipment, vehicles, or operations will occur, if the change is not required by a statute, regulation, or other legally binding document in effect as of the date the grant is awarded. No project funded by the program shall be used for credit under any state or federal emissions averaging, banking, or trading program. No emission reduction generated by the program shall be used as marketable emission reduction credits or to offset any emission reduction obligation of any entity. Projects involving new engines that would otherwise generate marketable credits under state or federal averaging, banking, and trading programs shall include transfer of credits to the engine end user and retirement of those credits toward reducing air emissions in order to qualify for funding under the program. A purchase of a low-emission vehicle or of equipment pursuant to a corporate or a controlling board's policy, but not otherwise required by law, shall generate surplus emissions reductions and may be funded by the program.

(c) The program may also provide funding toward installation of fueling or electrification infrastructure as provided in Section 44284.

(d) Eligible applicants may be any individual, company, or public agency that owns one or more covered vehicles that operate primarily within California or otherwise contribute substantially to the NO_x *and PM* emissions inventory in California.

(e) It is the intent of the Legislature that all emission reductions generated by this chapter shall contribute to public health by reducing, for the life of the vehicle being funded, the total amount of emissions in California.

SEC. 5. Section 44282 of the Health and Safety Code is amended to read:

44282. The following criteria apply to all projects to be funded through the program except for projects funded through the Advanced Technology Account and the Infrastructure Demonstration Program:

(a) Except for projects involving marine vessels, 75 percent or more of vehicle miles traveled or hours of operation shall be projected to be in California for at least five years following the grant award. Projects involving marine vessels and engines shall be limited to those that spend enough time operating in California air basins over the lifetime of the project to meet the cost-effectiveness criteria based on ~~NO_x~~ reductions *of NO_x and PM* in California, as provided in Section 44283.

(b) To be eligible, projects shall meet ~~cost-effectiveness per ton of NO_x reduced~~ *the* requirements of Section 44283 *regarding the cost-effectiveness per ton of NO_x and PM reduced*.

(c) To be eligible, retrofits, repowers, and installation of add-on equipment for covered vehicles shall be performed, or new covered vehicles delivered to the end user, on or after the date the program is implemented.

(d) Retrofit technologies, new engines, and new vehicles shall be certified for sale or under experimental permit for operation in California.

(e) Repower projects that replace older, uncontrolled engines with new, emissions-certified engines or that replace emissions-certified engines with new engines certified to a more stringent NO_x emissions standard are approvable subject to the other applicable selection criteria. The state board shall determine appropriate baseline emission levels for the uncontrolled engines being replaced.

(f) Retrofit and add-on equipment projects shall document a NO_x *or PM* emission reduction of at least 25 percent and no increase in particulate *or NO_x* emissions*, respectively,* compared to the applicable baseline emissions accepted by the state board for that engine year and application. The state board shall determine appropriate baseline emission levels. Acceptable documentation shall be defined by the state board. After study of available emission reduction technologies and after public notice and comment, the state board may revise the minimum percentage

~~NO_x~~ reduction criterion for *NO_x or PM* retrofits and add-on equipment provided for in this section to improve the ability of the program to achieve its goals.

(g) (1) For projects involving the purchase of new very low or zero-emission vehicles, engines shall be certified to an optional low NO_x emissions standard established by the state board, except as provided for in paragraph (2).

(2) For projects involving the purchase of new very low or zero-emission covered vehicles for which no optional low-NO_x emission standards are available, documentation shall be provided showing that the low or zero-emission engine emits not more than 70 percent of the NO_x or NO_x plus hydrocarbon emissions of a new engine certified to the applicable baseline NO_x or NO_x plus hydrocarbon emission standard for that engine and meets applicable particulate standards. The state board shall specify the documentation required. If no baseline emission standard exists for new vehicles in a particular category, the state board shall determine an appropriate baseline emission level for comparison.

SEC. 6. Section 44283 of the Health and Safety Code is amended to read:

44283. (a) Grants shall not be made for projects with a cost-effectiveness, calculated in accordance with this section, of more than ~~twelve~~ *the following:*

(1) Twelve thousand dollars ($12,000) per ton of NO_x reduced in California.

(2) An amount established by the state board pursuant to subdivision (b) of Section 44297 per ton of PM reduced in the state.

(b) Only NO_x *and PM* reductions occurring in this state shall be included in the cost-effectiveness determination. The extent to which emissions generated at sea contribute to air quality in California nonattainment areas shall be incorporated into these methodologies based on a reasonable assessment of currently available information and modeling assumptions.

(c) The state board shall develop protocols for calculating the surplus NO_x reductions in California from representative project types over the life of the project.

(d) The cost of the NO_x *and PM* reduction is the amount of the grant from the program, including matching funds provided pursuant to subdivision (e) of Section 44287, plus any other state funds, or funds under the district's budget authority or fiduciary

control, provided toward the project. The state board shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with the definition contained in subdivision ~~(c)~~ *(d)* of Section 44275, and with accepted methods, taking into account a fair and reasonable discount rate or time value of public funds.

(e) A grant shall not be made that, net of taxes, provides the applicant with funds in excess of the incremental cost of the project. Incremental lease costs may be capitalized according to guidelines adopted by the state board so that these incremental costs may be offset by a one-time grant award.

(f) Funds under a district's budget authority or fiduciary control may be used to pay for the incremental cost of liquid or gaseous fuel, other than standard gasoline or diesel, which is integral to a NO_x *or PM* reducing technology that is part of a project receiving grant funding under the program. The fuel shall be approved for sale by the state board. The incremental fuel cost over the expected lifetime of the vehicle may be offset by the district if the project as a whole, including the incremental fuel cost, meets all of the requirements of this chapter, including the maximum allowed cost-effectiveness. The state board shall develop an appropriate methodology for converting incremental fuel costs over the vehicle lifetime into an initial cost for the purposes of determining project cost-effectiveness. Incremental fuel costs may not be included in project costs for fuels dispensed from any facility that was funded, in whole or in part, from the fund.

(g) For purposes of determining any grant amount pursuant to this chapter, the incremental cost of any new purchase, retrofit, repower, or add-on equipment shall be reduced by the value of any current financial incentive that directly reduces the project price, including any tax credits or deductions, grants, or other public financial assistance. Project proponents applying for funding shall be required to state in their application any other public financial assistance to the project.

(h) For projects that would repower offroad equipment by replacing uncontrolled diesel engines with new, certified diesel engines, the state board may establish maximum grant award amounts per repower. A repower project shall also be subject to the incremental cost maximum pursuant to subdivision (e).

(i) After study of available emission reduction technologies and costs and after public notice and comment, the state board may reduce the values of the maximum grant award criteria stated in this section to improve the ability of the program to achieve its goals. Every year the state board shall adjust the maximum cost-effectiveness amount established in subdivision (a) and any per-project maximum set by the state board pursuant to subdivision (h) to account for inflation.

SEC. 7. Section 44284 of the Health and Safety Code is amended to read:

44284. (a) In order to provide sufficient support for low-emission vehicle projects at the start of the program, the commission shall administer a demonstration project that provides limited funds for fueling infrastructure. Expenditures from the fund for this demonstration program shall not exceed two million five hundred thousand dollars ($2,500,000). In addition to providing necessary financial assistance to a limited number of infrastructure projects, the purpose of the infrastructure demonstration program is to assess whether funding for infrastructure is an appropriate and cost-effective use of public funds.

(b) The commission shall solicit applications for a balanced mix of demonstration projects involving fueling and electrification infrastructure that is linked to covered vehicle projects and that is consistent with program goals. The commission, in consultation with participating districts, shall make every effort to coordinate infrastructure projects with covered vehicle projects representing a broad variety of fuels, technologies, and applications as appropriate and consistent with this chapter. Infrastructure projects that begin to dispense qualifying fuel on or after the date the program is implemented are eligible for funding under the program. The commission may also subvene infrastructure funds to districts to solicit applications and to expend the funds in accordance with this section. The commission shall have oversight and reporting responsibility for any funds that are subvened pursuant to this subdivision.

(c) Any fueling infrastructure funded under the program shall be approved for funding by both the commission and the applicable district. The commission, in consultation with the

districts, shall develop guidelines and criteria for infrastructure projects to be funded under the program.

(d) The purchase and installation of equipment at a site that is designed primarily to dispense qualifying fuel is eligible for funding under the program. ''Qualifying fuel'' includes any liquid or gaseous fuel, other than standard gasoline or diesel, which is ultimately dispensed into covered vehicles that provide NO_x *and PM* reductions in California, and which were introduced into operation in California on or after the date the program is implemented.

(e) Infrastructure projects to dispense qualifying fuel are eligible for funding from the Infrastructure Demonstration Program at a rate of seven dollars ($7) in one-time funding per million Btus of qualifying fuel to be dispensed annually. Projects that cannot demonstrate sufficient annual fuel throughput to qualify for a one hundred thousand dollar ($100,000) award, that is, over 14,280 million Btus per year, are not eligible for funding. Projects that can demonstrate an annual throughput of more than 14,280 million Btus per year, however, may request funding in amounts less than one hundred thousand dollars ($100,000). Private access facilities are eligible for a maximum award of up to four hundred thousand dollars ($400,000). Public access or limited public access facilities are eligible for a maximum award of up to six hundred thousand dollars ($600,000). Cofunding may be required to receive the applicable award amount. Infrastructure project awards from the fund, net of taxes, shall not exceed the total cost of the infrastructure project less any other applicable grants or tax credits.

(f) Infrastructure projects to dispense qualifying fuel shall meet all of the following criteria:

(1) Provide documentation, signed by owners of vehicles that will use the fuel, to demonstrate that an approvable amount of qualifying fuel is expected to be dispensed over a period of at least five years.

(2) Be designed to meet current industry standards and codes and any applicable regulations.

(3) If the owner of the fuel storage and dispensing equipment will be fueling vehicles the owner does not own, the owner shall provide one or more statements, signed by the proposed fueling equipment owner and by the owners of those vehicles that are

referenced in the demonstration of adequate fuel throughput pursuant to subdivision (e), that mutually satisfactory arrangements regarding fuel price have been made. If the owner and operator of the fueling equipment will use the equipment exclusively to fuel his or her own vehicles, no documentation regarding fuel pricing arrangements is required.

(g) Infrastructure projects to dispense electricity to covered vehicles shall be eligible for funding from the Infrastructure Demonstration Program at the rate of a minimum of four thousand dollars ($4,000), up to a maximum of ten thousand dollars ($10,000) per charger infrastructure charge port including installation for each qualifying charger. A ''qualifying charger'' is any charger that dispenses 4,000 kWh or more of energy per year, through each of one or more charging ports, into one or more covered vehicles that provide NO_x *and PM* reductions in California. Awards shall be based on a sliding scale of four thousand dollars ($4,000) to fourteen thousand dollars ($14,000) per charger port for qualifying chargers that dispense between 4,000 kWh and 15,000 kWh of electricity per port. In order for the project to be eligible for funding, documentation shall be provided, signed by owners of the vehicles that will use the charger, to demonstrate that the claimed kilowatt hours of electricity are expected to be dispensed per year for a period of at least five years. Funding shall be limited to a maximum award of two hundred thousand dollars ($200,000) per business per location. Infrastructure project awards from the fund, net of taxes, shall not exceed the total cost of the infrastructure project less any other applicable grants or tax credits.

(h) The commission, in consultation with the state board and the districts, shall develop a simple, standardized application package for a project to be funded from the Infrastructure Demonstration Program. In addition to the application form, an application package shall include a brief description of the program, the projects that are eligible for the funding that is available, the selection criteria and evaluation process, the documentation that is required, and who to contact for more information, as well as an example of the contract that an applicant will be required to execute before receiving a grant award. The application form shall require as much information as the commission determines is necessary to properly evaluate each

project, but shall otherwise minimize the information required. An applicant shall not be required to calculate tons of emissions reduced or cost-effectiveness as part of the application. Application packages shall be finalized and published as soon as practicable.

(i) The commission shall make staff or technical support contractors available on an as-needed basis within available budgetary resources to assist project proponents to address issues common to infrastructure projects eligible for funding. Those issues may involve permitting and safety requirements.

(j) As part of the annual program reports required pursuant to Section 44295, the commission shall report on the use of Infrastructure Demonstration Program funds. The commission shall report on facilities funded, how those facilities are supporting covered vehicle projects, fuel or electricity dispensed from each facility, and associated emissions reductions and cost-effectiveness. The commission shall calculate a total cost-effectiveness of NO_x *and PM* reductions from the vehicles that fuel at facilities funded from the Infrastructure Demonstration Program. This total cost-effectiveness shall include program funding provided to vehicles as well as funding provided from the Infrastructure Demonstration Program.

SEC. 8. Section 44285 of the Health and Safety Code is amended to read:

44285. (a) From time to time, the commission shall issue specific requests for proposals (RFPs) or program opportunity notices (PONs) for technology proposals to be funded from the Advanced Technology Account. The first issuance of RFPs or PONs shall be no later than January 31, 2000. It is the intent of the Legislature that the technology grants be used to support development of emission-reducing technologies that could be used for projects eligible for funding pursuant to this chapter. It is also the intent of the Legislature that the technology grants be directed to a balanced mix of retrofit and add-on technologies to reduce emissions from the existing stock of targeted vehicles, as well as to advanced technologies for new engines and vehicles that produce very low or zero-NO_x *and PM* emissions. The commission, in consultation with the state board, may also consider funding technology projects that would allow qualifying fuels, as defined in subdivision (d) of Section 44284, to be

produced from California energy resources, with preference given to projects involving otherwise unusable California energy resources, at prices lower than prices otherwise available and low enough to make projects that would qualify for funding under the program economically attractive to local businesses. Not more than 20 percent of Advanced Technology Account funds may be directed to those qualifying fuel projects. Advanced technologies and any retrofit or add-on projects that provide multiple benefits by reducing emissions of particulates and other air pollutants should be given special consideration by the commission in soliciting proposals and determining how to allocate funds. At least 50 percent of the funds available in the Advanced Technology Account shall be directed toward technologies that provide multiple benefits.

(b) Proposals involving technologies that allow onroad covered vehicles to replace with electric power the power normally supplied by the vehicles' internal combustion engine while the vehicle is parked shall be eligible for funding from the Advanced Technology Account if they meet all applicable criteria under this section.

(c) Technologies proposed for technology grants shall show clear and compelling evidence that the technology being funded has a strong commercialization plan and organization, is likely to be offered for commercial sale in California within five years of the application for funding, and that, once commercial, the technology will present opportunities for projects otherwise eligible for funding pursuant to this chapter. The commission shall specifically consider the projected NO_x *and PM* reducing potential and cost-effectiveness of the commercialized technology, the potential for the technology to contribute in a significant way to air quality goals, and the strength of the commercialization plan.

(d) The commission may require cost sharing for technology projects, but shall not require repayment of funds granted.

(e) Proposals for projects involving either publicly owned or privately owned vehicles or vessels shall be eligible for technology awards.

(f) In developing RFPs and PONs and in evaluating proposals for funding, the commission shall consider that the primary objective of technology grants is to advance toward

commercialization technologies that would support projects to be funded under the program.

SEC. 9. Section 44295 of the Health and Safety Code is amended to read:

44295. (a) Not later than March 1, 2001, and each March 1 thereafter, through March 1, 2003, the state board in cooperation with participating districts, and assisted by the commission with regard to projects funded from the Infrastructure Demonstration Program and the Advanced Technology Account, shall publish, and notwithstanding Section 7550.5 of the Government Code, provide the Legislature with, a program report. The report shall describe each covered vehicle project funded by the state board and by districts that have received funds pursuant to this chapter, the amount granted for the project, and the emission reductions obtained and the cost-effectiveness of the project. For projects funded from the Advanced Technology Account, the report shall describe the technical objectives and accomplishments of the project, and the progress of the technology toward commercialization. For projects funded from the Infrastructure Demonstration Program, the report shall describe whether the funding has been critical to supplying qualifying fuel and supporting vehicles that reduce NO_x *and PM* emissions in California, shall include a discussion of demonstration program cost-effectiveness pursuant to subdivision (j) of Section 44284, and shall make a finding as to the need for additional moneys to be appropriated from the fund to the Infrastructure Demonstration Program in order to improve the ability of the program to achieve its goals.

(b) The report shall detail funds received, funds granted, funds reserved for grants based on project approvals, district matching funds and the sources of those funds, and any recommended transfer of funds between accounts, and shall estimate future demand for grant funds.

(c) The report shall describe the overall effectiveness of the program in delivering the emission reductions required by air quality plans, including rate of progress plans and milestone and conformity tests, as well as attainment and maintenance plans. The report shall evaluate the effectiveness of the program in soliciting and evaluating project applications, providing awards in a timely manner, and monitoring project implementation. The report shall

describe any adjustments made to the project selection criteria and recommend any further needed changes or adjustments to the grant program, including changes in grant award criteria, administrative procedures, or statutory provisions that would enhance the effectiveness and efficiency of the grant program.

(d) The state board shall request comments and hold public meetings on each draft annual report to obtain public comments. The state board shall consider and respond to all significant comments received in producing a final annual report.

(e) A final annual report shall be published within 90 days from the date of publication of each draft annual report.

SEC. 10. Article 13 (commencing with Section 44297) is added to Chapter 9 of Part 5 of Division 26 of the Health and Safety Code, to read:

44297. (a) Not later than July 1, 2004, the state board shall assess programs to retire from service the oldest and heaviest-polluting on-road diesel vehicles to ensure the programs produce real, quantifiable, enforceable, and surplus emission reductions. The assessment shall be conducted in cooperation with, and rely upon information provided by, participating districts and other interested parties. The state board shall consider the findings resulting from this review when revising grant criteria and guidelines pursuant to subdivision (b).

(b) Not later than January 1, 2005, the state board, consistent with Section 44287, shall revise existing grant criteria and guidelines established pursuant to Section 44287 to incorporate projects authorized by this article and the reduction of PM emissions. The guidelines shall include protocols for calculating cost-effectiveness for PM.

44297.5. (a) Notwithstanding any other provision of this chapter, and subject to the requirements of this section, a project that combines the emission reductions gained from both of the following transactions constitutes a single project and is thus eligible for funding under the program:

(1) The purchase of a new very low- or zero-emission covered vehicle pursuant to paragraph (1) of subdivision (a) of Section 44281.

(2) The replacement of an old engine with a newer engine certified to more stringent emissions standards than the engine

being replaced, pursuant to paragraph (2) of subdivision (a) of Section 44281.

(b) A project is only eligible for funding pursuant to subdivision (a) if the district in which the project is located establishes a program that does all of the following:

(1) Identifies geographic areas and industry sectors within the district that offer the greatest opportunities to reduce emissions of NO_x and PM by replacing and retiring from service the oldest and highest-polluting diesel trucks.

(2) Conducts outreach to potential purchasers of new vehicles under the program and owners of old, heavy-polluting vehicles that are likely candidates for replacement and retirement from service.

(3) Serves, or authorizes another entity to serve, as a broker for facilitating transactions, including receiving donated vehicles that will be used to replace those old, heavy-polluting vehicles that will be retired from service.

(c) Grants may not be made for projects with a combined cost-effectiveness that exceeds the dollar amount per ton of NO_x and PM reduced in California, as established by the state board. The project's cost-effectiveness shall be calculated in accordance with Section 44283 by calculating the cost-effectiveness of each transaction and combining the grant award allowable for each transaction.

(d) The state board may not grant an award pursuant to this section until both transactions described in subdivision (a) have occurred and been certified by the district.

(e) The calculation of a project's incremental cost, for the purposes of projects funded pursuant to this section, includes the value, as determined by the district and net of any tax benefits derived from the donation, of the truck donated by the applicant, as well as all incremental costs described in subdivision (k) of Section 44275.

44298. It is the intent of the Legislature to do all of the following:

(a) Pursue all feasible means to retire from service the oldest and heaviest polluting onroad diesel vehicles, particularly those operated in heavily populated areas.

(b) Facilitate the replacement and retirement from service of the oldest and heaviest-polluting onroad diesel vehicles through

the program by encouraging the owners of heavy-duty trucks to purchase a new low-emission vehicle and participate in a program in which the vehicle they replace is used to replace and retire from service an older, more heavily polluting truck.

(c) Assure that the emissions reductions gained by retiring a vehicle from service and replacing it with a newer, lower emission vehicle that is donated remain in the district where the transaction occurred, and to require districts that fund projects pursuant to the program to take all reasonable steps, including the monitoring, audit, and recapture provisions of Section 44291 to provide that assurance.

~~that the Carl Moyer Air Quality Standards Attainment Program continues to be an effective means of reducing diesel exhaust emissions.~~

~~(b) It is the further intent of the Legislature to analyze that program, including recent changes to emission standards, to ensure that the program continues to support local air pollution control districts that wish to encourage use of a variety of fuels and emission reduction technologies to achieve reductions in diesel exhaust emissions.~~

~~SEC. 2. Section 44295 of the Health and Safety Code is amended to read:~~

~~44295. (a) Not later than March 1, 2001, and each March 1 thereafter, to March 1, 2006, inclusive, the state board in cooperation with participating districts, and assisted by the commission with regard to projects funded from the Infrastructure Demonstration Program and the Advanced Technology Account, shall publish, and notwithstanding Section 7550.5 of the Government Code, provide the Legislature with, a program report. The report shall describe each covered vehicle project funded by the state board and by districts that have received funds pursuant to this chapter, the amount granted for the project, and the emission reductions obtained and the cost-effectiveness of the project. For projects funded from the Advanced Technology Account, the report shall describe the technical objectives and accomplishments of the project, and the progress of the technology toward commercialization. For projects funded from the Infrastructure Demonstration Program, the report shall describe whether the funding has been critical to supplying qualifying fuel and supporting vehicles that reduce NO_x emissions in California, shall~~

~~include a discussion of demonstration program cost-effectiveness pursuant to subdivision (j) of Section 44284, and shall make a finding as to the need for additional moneys to be appropriated from the fund to the Infrastructure Demonstration Program in order to improve the ability of the program to achieve its goals.~~

~~(b) The report shall detail funds received, funds granted, funds reserved for grants based on project approvals, district matching funds and the sources of those funds, and any recommended transfer of funds between accounts, and shall estimate future demand for grant funds.~~

~~(c) The report shall describe the overall effectiveness of the program in delivering the emission reductions required by air quality plans, including rate of progress plans and milestone and conformity tests, as well as attainment and maintenance plans. The report shall evaluate the effectiveness of the program in soliciting and evaluating project applications, providing awards in a timely manner, and monitoring project implementation. The report shall describe any adjustments made to the project selection criteria and recommend any further needed changes or adjustments to the grant program, including changes in grant award criteria, administrative procedures, or statutory provisions that would enhance the effectiveness and efficiency of the grant program.~~

~~(d) The state board shall request comments and hold public meetings on each draft annual report to obtain public comments. The state board shall consider and respond to all significant comments received in producing a final annual report.~~

~~(e) A final annual report shall be published within 90 days from the date of publication of each draft annual report.~~

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